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JULIE NAUMAN  
Executive Officer

# Memorandum

Date: December 31, 2009

To: Julie Nauman  
Executive Officer

From: Amy Cheung, Chief  
Office of Audits and Investigations

Subject: **Financial Integrity and State Manager's Accountability (FISMA) Act**

Enclosed is the final report of our internal control review of the Victim Compensation and Government Claims Board (VCGCB). The Office of Audits and Investigations (OAI) performed this review in accordance with the Financial Integrity and State Manager's Accountability (FISMA) Act of 1983, Government Code Section 13400 et seq.

Copies of the final report are required to be electronically submitted to the State Legislature, the State Auditor, the Governor, the Director of the Department of Finance, and the State Library.

If you have any questions regarding this report, please contact me at (916) 491-3875 or by email at [Amy.Cheung@vcgcb.ca.gov](mailto:Amy.Cheung@vcgcb.ca.gov).

AMY CHEUNG, Chief  
Office of Audits and Investigations

Enclosure

AC:aj:2009-AUD-04

cc: Patty Harris, Chief Deputy Executive Officer  
Wayne Strumpfer, Chief Counsel  
Terri Hamilton, Deputy Executive Officer, Administration Division  
Patricia Valencia-Carlson, Deputy Executive Officer, Fiscal Services Division  
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Ben Beasley, Interim Chief Information Officer

**AGENCY NAME:** State and Consumer Services Agency  
**DEPARTMENT NAME:** Victim Compensation and Government Claims Board  
**ORGANIZATION CODE:** 1870

#### **INTRODUCTION:**

In accordance with the Financial Integrity and State Manager's Accountability (FISMA) Act of 1983, the Victim Compensation and Government Claims Board (VCGCB) submits this report on the review of our systems of internal control for the biennial period ended December 31, 2009.

Should you have any questions please contact Amy Cheung, Chief, Office of Audits and Investigations at (916) 491-3875 or by email at [Amy.Cheung@vcgcb.ca.gov](mailto:Amy.Cheung@vcgcb.ca.gov).

#### **BACKGROUND:**

The VCGCB was first established in 1911 and was known as the Board of Control. It was responsible for supervising the business affairs of all state departments, hospitals, prisons, and reformatories, boards, commissions, and bureaus, and the Department of Public Accounting. In 1927 its oversight role ended. Thereafter, its duties included the adoptions of rules and regulations governing the presentation and audit of contract or tort claims. Its duties were expanded in 1963 with the enactment of the Torts Claims Act, which the VCGCB administers on behalf of the State.

In 1965, California created the nation's first Victim Compensation Program (CalVCP). Responsibility for this program was transferred to the VCGCB in 1967 and has since become its largest program.

The VCGCB's responsibilities have increased over the years and in 2001 its name was changed to more accurately reflect its roles and responsibilities. Today, the VCGCB administers the State's Government Claims Program (GCP), CalVCP, and Revenue Recovery Program.

##### California Victim Compensation Program

The CalVCP provides compensation for victims of violent crime who are injured or threatened with injury. Crimes covered include domestic violence, child abuse, sexual and physical assault, homicide, robbery, drunk driving and vehicular manslaughter. The CalVCP will compensate many types of services when the costs are not covered by other sources if a person meets eligibility criteria. Covered expenses include medical and dental care, mental health services, income loss, funeral expenses, rehabilitation and relocation. Restitution fines and orders, penalty assessments levied on persons convicted of crimes and traffic offenses and federal contributions fund the CalVCP program.

##### Government Claims Program

The GCP helps resolve claims against state agencies and employees for monetary damages. In most cases, a person who is considering suing the state is required to first seek an administrative remedy by filing a claim with the VCGCB. Typical claims involve state vehicle accidents, contract disputes and damage to property. When a claim is received, GCP staff investigate and make a recommendation to the Board regarding the disposition of the claim. The Board either rejects the claim or orders the responsible state agency to pay the claim. Payment may either come from the agency's existing budget or through an annual legislative appropriation. The GCP is self-funded, supported by a \$25 filing fee and a surcharge paid by state agencies on approved claims.

#### Revenue Recovery Program

The State Restitution Fund is a key funding source for compensation paid to victims of violent crime. The Restitution Fund receives the majority of its revenue from restitution fines, diversion fees, restitution orders and penalties paid by criminal offenders. In addition to the Restitution Fund, the CalVCP also receives federal grant monies from Victims of Crime Act (VOCA) funds. The VOCA funds come from penalties paid by offenders convicted of federal crimes. To ensure the integrity of the Restitution Fund, the VCGCB works with prosecutors, probation officers, courts and other state departments to facilitate the imposition and collection of restitution fines and orders against criminal offenders. To promote collection of restitution owed, the VCGCB partners with county offices, the California Department of Corrections and Rehabilitation and the Franchise Tax Board's Court-Ordered Debt Collections program.

The VCGCB's responsibilities extend to a number of other matters including the handling of bid protests, handling claims of erroneously convicted felons, administering the California State Employees Charitable Campaign, setting rates for travel expenses for elected state officials and the judiciary, establishing per diem rates for members of the Legislature, and administering the Good Samaritan Act and the Missing Children Reward Program.

The governing body of the VCGCB consists of three members: the Secretary of the State and Consumer Services Agency who serves as the chair, the State Controller, and a public member appointed by the Governor. The three-member Board provides oversight for the many programs and functions entrusted to this department within California's State and Consumer Services Agency.

#### **VACANT POSITIONS:**

The VCGCB is fully aware of the statutory provisions set forth in Government Code (GC) section 12439. The department is closely monitoring its vacant positions to ensure compliance. The department tracks its vacancies through a system maintained by the department's human resources section, which works with the program area to which each vacant position is assigned. The department is in compliance with GC section 12439.

#### **RISK ASSESSMENT:**

The Office of Audits and Investigations (OAI) conducted an organizational wide risk analysis to identify and evaluate the risks that could impede the VCGCB's achievement of its mission, vision, and goals. To initiate this assessment, we reviewed the VCGCB's prior internal control review report and discussed with management and staff to determine if previous audit findings had been resolved.

Additionally, we took the following steps to complete this assessment.

1. Identify all program areas of the VCGCB.
2. Identify risk factors used to determine the significance of and likelihood that conditions and/or events may occur that would adversely affect the VCGCB.
3. Weigh the risk factors.
4. Compute the weighted score for each program area.

### Internal Audits

In June 2009, Governor Schwarzenegger required the posting of external and internal audits by all state departments and agencies. Internal audits performed by the OAI are readily available on the Reporting Transparency in Government website.

### External Audits

In 2008, the Bureau of State Audits completed a review of the board and program's funding structure and accessibility of services to crime victims. Management continues to make progress on the issues reported.

In January 2009, the Department of General Services (DGS) initiated a compliance audit on state business management policies. These audits are routinely performed under the authority granted to the DGS by GC sections 14615 and 14619. An exit meeting was held on June 11, 2009. It is anticipated that a final report be issued in December. Reliance on the work performed by DGS auditors was placed in an effort to reduce the duplication of audit work. Some of the issues found are included in this report.

In July 2009, the California Recovery Task Force requested that the Department of Finance's Office of State Audits and Evaluations (OSAE) conduct an oversight and accountability readiness review for the American Recovery and Reinvestment Act funding for the VCGCB. The VCGCB received \$8,110,055 in total funding. OSAE examined the VCGCB's readiness in the general areas of oversight and fraud prevention, grants management and accountability, reporting requirements, and transparency. Guidelines released by the Whitehouse Office of Management and Budget as well as the National Procurement Fraud Task Force best practices guidance were used to determine compliance standards. No significant risks were noted.

## **EVALUATION OF RISKS AND CONTROLS:**

### **Issue 1 – Untimely collection of outstanding accounts receivable**

Collection letters for five out of ten outstanding accounts receivable reviewed, totaling \$21,798.36, were not sent out in a timely manner.

GC section 13401(b)(1) requires each state agency to maintain effective systems of internal accounting control as part of its management practices.

GC section 13403(a)(3) states that the system of internal control shall include effective accounting controls over assets.

State Administrative Manual (SAM) section 8776.6 requires departments to implement procedures that assure prompt follow-up on receivables. This section also requires departments to send a series of three collection letters at 30-day intervals.

### Risk

The VCGCB may fail to timely collect significant outstanding accounts receivable. Also, delaying collection efforts reduces the amount of resources available to the programs administered by the VCGCB.

### Recommendation

We recommend VCGCB's Revenue Recovery Program strengthen its collection effort of outstanding accounts receivable to ensure the timely collection of amounts due.

#### Management's Response / Corrective Action Plan

The Accounts Receivable (AR) analyst in the Liens and Overpayment Recovery Section (LORS) has reviewed the collection procedures to ensure that the series of collection letters are mailed in a timely manner. The AR analyst has set up a "tickle" system within the LORS system by which the three collection letters are sent at 30-day intervals.

#### **Issue 2 – Improvement is needed over the accuracy of recording personnel and payroll records**

We selected 10 employees over a three-month period and reviewed their personnel and payroll records (e.g. timesheets, leave records, and pay warrants). The following errors were not timely identified or corrected:

- Employees on the alternate work schedule did not record one hour of leave time when a state holiday fell on their nine-hour work day.
- An employee recorded a total of 10.5 hours of sick, vacation, and worked hours on one-day that exceeded an eight-hour work day. The employee also did not record one work day during the pay period.
- Two timesheets showed a total of 32 hours of furlough time that were not entered into the payroll system.
- Another two timesheets showed a total of 8 hours under the Family and Medical Leave Act that were not entered or entered correctly into the payroll system.
- Two excess hours were not credited to two employees' leave records.
- An employee on alternate work schedule did not indicate their scheduled days off during the furlough period. Had the employee not taken the two scheduled days off, the employee should have been compensated for 16 hours.
- An employee used two and a half hours of approved unpaid leave time but received a full pay warrant. The same employee was underpaid by 14.75 hours because of a miscalculation of her approved unpaid leave time.

Additionally, we reviewed appointment and separation documents, timesheets, and pay warrants for four employees and found:

- A new employee was underpaid due to a miscalculation of the number of days worked.
- No separation checklist completed for an employee who began working as a retired annuitant following retirement.
- No timesheet or separation checklist completed for an employee that resigned after 3 work days.

GC section 13401(b)(1) requires each state agency to maintain effective systems of internal accounting and administrative control as part of its management practices.

SAM section 8539 requires agencies to maintain complete records of attendance and absences for each employee during each pay period. These records will be properly certified.

SAM section 8580.4 recommends that a check-out list acknowledging the return of state-owned items such as credit cards, keys, state records, and equipment be completed for separating employees prior to the release of the final warrant. The check-out list may also include the verification from the office revolving fund staff that there are no outstanding travel or salary advances.

#### Risk

The VCGCB is susceptible to the risk of misstated records and errors if employee payroll records are inaccurate. This could potentially lead to fraud and abuse.

#### Recommendation

We recommend the VCGCB's Human Resources Section improve its personnel and payroll practices by:

- Providing training to VCGCB supervisors and managers in reviewing the accuracy of timesheets;
- Requiring personnel and payroll entries be reviewed after they are entered into the payroll system.
- Completing separation clearance procedures and include all documents in the separated employee files. Separation checklists should be completed, reviewed, approved, and signed to ensure that VCGCB property is returned, outstanding receivables are cleared, and the final paycheck is accurate.

#### Management's Response / Corrective Action Plan

The Human Resources Section has been proactively looking for ways to improve processes. This is especially true for time sheets as we note many errors every month that require special attention and time to correct.

The specific time sheet errors noted in the audit have been corrected and properly keyed into the State Controller's Office. Where necessary, account receivables were set up, time was restored, or leave balances adjusted.

There were three instances where employees on alternate work schedules did not record one hour of leave time when a state holiday fell on their nine-hour day. This error was noted by HR staff on several time sheets in approximately November 2008 and the sample alternate work schedule calendars were corrected. In addition, an audit was initiated to correct all time sheet errors over the last three years. This audit is still in process.

In approximately July 2009, the Standard Form 634, Absence and Additional Time Worked, was changed to include hours worked, hours needed and excess earned or used in the "remarks" section and was posted on the Boardnet. This change was initiated due to the number of errors noted on the alternate work schedule time sheets.

Procedures have also been put in place to ensure a thorough HR review of time sheets for accurate monthly posting of leave balances and to reconcile with the State Controller's Office monthly. In addition, HR will conduct an annual audit of leave for all employees to ensure leave records are correct.

In addition to the improvements noted above, the Human Resources Section currently offers on-going training to all employees with the VCGCB on timesheet completion and keeping accurate attendance records. This training was announced at a Leadership meeting to all managers and we regularly encourage them to schedule the training for their employees in areas where we see numerous mistakes on time sheets.

In July 2009, step-by-step instructions were created for managers on the separation process and the separation form was changed to more accurately reflect the document flow and ensure that HR receives the completed form timely.

It should be noted also that the time frame for this audit was January through March 2009, which was when furlough hours were first initiated. The information we received from the Department of Personnel Administration and instructions from State Controller's Office at the time were released late and were ambiguous until clarified in subsequent months.

### **Issue 3 – Inadequate control over contracts**

During the DGS audit on state business management policies, auditors found the following:

- Two contracts and two interagency agreements requiring DGS approval were not approved timely.
- One master service agreement (MSA) contract included a Scope of Work (SOW) that did not clearly specify the services provided.
- Two small dollar contracts failed to adequately document that a market survey was conducted or adequately document that the award price was Fair and Reasonable.
- Two contracts showed work had started prior to contract approval.

GC section 13401(b)(1) requires each state agency to maintain effective systems of internal accounting and administrative control as part of its management practices.

State Contracting Manual (SCM) section 4.09(A) – Approval and Commencement of Work, states that no contractor should start work until receiving a copy of the formally approved contract. The approval of DGS/OLS is the final, formal approval of the contract. The law provides that when DGS/OLS approval is required, contracts for services should not begin before receipt of approval; payment for services may not be made until the contract is approved by the DGS/OLS or, in the case of an exempt contract, until it is formally approved by the agency.

SCM section 2.05 - Elements of a Valid Contract, states that each contract must contain clear and concise language to describe the scope of the work, service, or product to be performed, rendered, or provided.

SCM section 5.70(D) – Non-Competitively Bid (NCB) Contract Justification, states that a contract cost justification that addresses the appropriateness or reasonableness of the contract cost is required if the contract is exempt from the NCB process, or if fewer than 3 competitive bids or proposals are received.



### Risk

There is an increased risk of paying for invalid contracts when they are not approved timely. If the scope of work in the contract is not specific, then there is a risk that the contract work provided is either incomplete or not performed as VCGCB intended. Also, the contract cost may be unreasonable if the contract cost justification is not adequately documented.

### Recommendation

DGS auditors recommend VCGCB's Business Services Section:

- Implement policies and procedures that ensure all required approvals are obtained prior to commencement of the contract.
- Include language in the contract specifying that the contract start date does not take effect until approval of the contract.
- Implement policies and procedures that ensure a clear, concise, and detailed description of the work to be performed for each contract.
- Implement policies and procedures that ensure that contracts are compliant with all informal competition requirements as they relate to Fair and Reasonable documentation.
- Implement policies and procedures that ensure work is not started prior to contract approval.

We further recommend VCGCB's Business Services Section require staff to attend training on the contracts process.

### Management's Response / Corrective Action Plan

The Business Services Section Purchasing Manual (PM) has been revised to clearly specify that all DGS contract approvals must be obtained prior to commencement of the contract. Language has been drafted for inclusion in each contract which specifies that a contract start date does not take effect until DGS approval is obtained.

The Business Services Section PM has been revised to clearly specify that a SOW must be clear and concise, detailing the description of the work to be performed, and that the contract must include a valid SOW.

The Business Services Section PM has been revised to clearly specify the requirements of informal competition related to fair and reasonable documentation to ensure compliance.

The Business Services Section PM has been revised to clearly specify that contract work may not begin prior to contract approval.

The Business Services Section PM has been revised to clearly specify what file documentation is required to achieve applicable contracting and purchasing compliance.

Staff has completed Procurement Division Cal-PCA training and will repeat training every three (3) years or sooner, depending on changes to the procurement process.

#### **Issue 4 – Inadequate control over purchasing**

DGS auditors also found the following issues relating to purchasing during their audit on state business management policies.

- For California Strategic Source Initiative contracts, three out of five purchase orders reviewed did not have complete documentation in the file.
- For Commodity Delegated purchase orders, two purchase orders were out of compliance with the applicable terms and conditions of the Procurement Division Purchasing Delegation.
- For Commodity Delegated purchase orders, two out of four purchase orders reviewed were for acquisition of services that were not allowed under delegated purchasing.
- For Leveraged Procurement Agreements for goods and services, all five purchase orders reviewed were not in compliance with the terms and conditions of the purchasing authority regarding the use of leverage procurement agreement contracts.
- For information technology transactions, all six purchases reviewed were out of compliance with contracting and purchasing requirements.
- For acquisitions paid by CAL-Card, three out of eighteen CAL-Card statements reviewed included purchase of items that should have been procured under a mandatory information technology contract.

GC section 13401(b)(1) requires each state agency to maintain effective systems of internal accounting and administrative control as part of its management practices.

GC section 13403(a)(3) states that internal accounting and administrative controls are the methods through which reasonable assurances can be given that measures adopted by state agency heads to safeguard assets, check the accuracy and reliability of accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies are being followed.

SAM section 8422.20 – Stock Received Reports, state that the receiving department will prepare Stock Received Reports, or use an approved purchase order document to record receiving information at the time goods are received.

SCM section 5.70(D) – Non-Competitively Bid Contract Justification, states that a contract cost justification that addresses the appropriateness or reasonableness of the contract cost is required if the contract is exempt from the non-competitively bid contract process, or if fewer than 3 competitive bids or proposals are received.

SCM section 7.34 – Contract Payment by State Purchase Card, CAL-Card, states that the Cal-CARD is a payment mechanism only. It shall not be used to circumvent services contracting rules.

SCM section 7.70(B) – Recycled Product Content, states that the contractor must agree to certify in writing, the percentage of post-consumer and secondary materials provided, or used in the services provided under the agreement.

SCM section 8.13 – When to Apply DVBE Goals to a Contract, states unless statutorily exempt, all contracts are subject to the DVBE requirement. When an agency decides to waive the DVBE requirement, this must be noted in the solicitation.

Risk

By not documenting or maintaining accurate purchasing records, there is a risk that purchase orders are not properly authorized.

Recommendation

DGS auditors recommend VCGCB's BSS:

- Implement policies and procedures that ensure file documentation is in compliance with applicable contracting and purchasing criteria.
- Implement policies and procedures that ensure acquisition of services are in compliance with the applicable contract provisions and requirements.
- Implement policies and procedures that ensure purchase orders for leveraged procurement agreement contract are awarded in accordance with the applicable leveraged procurement agreement contract terms and conditions.
- Implement policies and procedures that ensure compliance with the requirements of the applicable procurement process for all CAL-Card transactions and ensure that CAL-Card is used solely as a payment method.
- Implement ongoing training of approving officials and purchasing staff on Procurement Division Purchasing Delegations requirements as defined in the SCM Volume II.
- Remind approving officials the importance of verifying purchase orders to ensure that the purchase orders are in compliance with applicable terms.

Management's Response / Corrective Action Plan

The Business Services Section (BSS) PM has been revised to clearly specify that all DGS contract approvals must be obtained prior to commencement of the contract. Language has been drafted for inclusion in each contract which specifies that a contract start date does not take effect until DGS approval is obtained.

The Business Services Section PM has been revised to clearly specify that a SOW must be clear and concise, detailing the description of the work to be performed, and that the contract must include a valid SOW.

The Business Services Section PM has been revised to clearly specify the requirements of informal competition related to fair and reasonable documentation to ensure compliance.

The Business Services Section PM has been revised to clearly specify that contract work may not begin prior to contract approval.

The Business Services Section PM has been revised to clearly specify what file documentation is required to achieve applicable contracting and purchasing compliance.

Staff has completed Procurement Division Cal-PCA training and will repeat training every three (3) years or sooner, depending on changes to the procurement process. Approving officials will be

reminded of the importance of verifying that purchases orders are in compliance with applicable terms, and attend training as warranted.

The Business Services Section PM has been revised to clearly specify the requirements for LPA procurements to ensure they are awarded in accordance with applicable LPA contract terms and conditions.

#### **Issue 5 – Inadequate control over fixed assets**

The VCGCB has not completed a physical inventory count of its property as of June 30, 2009. Also, not all fixed assets have been properly identified. This is a repeat finding from the prior FISMA report, dated December 20, 2007. The updated Corrective Action Plan, dated July 23, 2009, indicates that staff will complete a physical inventory of all equipment and each piece will be tagged with barcodes, scanned, and inventoried. It is anticipated that this will be completed by December 31, 2009.

Additionally, Property Survey Reports (Std. Form 152) were not always completed properly and timely. During the DGS audit on state business management policies, auditors found three Property Survey Reports that did not include the date and disposal method.

GC section 13401(b)(1) requires each state agency to maintain effective systems of internal accounting and administrative control as part of its management practices.

GC section 13403(a)(3) states that internal accounting and administrative controls are the methods through which reasonable assurances can be given that measures adopted by state agency heads to safeguard assets, check the accuracy and reliability of accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies are being followed

SAM section 3520.3 states that a state agency proposing to dispose of state-owned, nonexpendable surplus property must prepare a Property Survey Report (Std. Form 152).

SAM section 8651 requires that all state property will be tagged after acquisition.

SAM section 8652 requires departments will make a physical count of all property and reconcile the count with accounting records at least once every three years

#### Risk

The risk of misstated property records and unaccounted for lost or stolen property increases when there is an inadequate control and accountability over fixed assets.

#### Recommendation

We recommend VCGCB's Business Services and Information Technology Sections tag all state property after acquisition, complete a physical count of all property, and reconcile the results with accounting records at least once every three years. We also recommend VCGCB implement procedures to ensure that Property Survey Reports are completed properly and timely.

#### Management's Response / Corrective Action Plan

The Business Services Section and the Information Technology Section have completed the internal physical inventory of fixed assets. All furnishings and equipment have received appropriate State property tag. All required data has been collected and stored in the Board's Property Inventory database.

The Business Services Section and Information Technology Section has developed a comprehensive inventory system which requires that property inventory be reconciled every 6 months, and that Property Inventory Reports be provided to the Accounting Section and DGS by April 1<sup>st</sup> annually.

The Business Services Section has established policies and procedures to ensure proper documentation of new equipment and furnishings. The Business Services Section has reminded staff of the importance of properly completing the inventory and subsequent reports.

The Business Services Section has established policies and procedures to ensure proper documentation of the disposal of surplus State property. The Business Services Section has reminded staff of the importance of properly completing all documents.

#### **CONCLUSION:**

Based on our review, we believe that the VCGCB's systems of internal control achieved the adequacy necessary to effectively run its operations. Management recognizes the issues mentioned above and remains committed to correcting and improving these items.

**Comment [ac1]:** What is the adequacy of your agency's systems of internal control?

*Note: The report components listed above are the minimum required. You may add additional information. Also, the report must be completed and sent as follows:*

- *For entities with an Agency Secretary, the report should be addressed and sent to the Agency Secretary.*
- *For entities that do not report to an Agency Secretary, the report should be addressed and sent to the Director of Finance.*
- *Entities are also required to forward copies of the report to the Director of Finance, the Legislature, the State Auditor, the Governor, and to the State Library.*